

TAKE IT LIKE A MAN reconciling a female-oriented approach to lawyering with male-oriented professional norms

BY JANET V. SIEGEL

My female friends and I consider ourselves to be ambitious, motivated go-getters, so why is it that we now find ourselves confiding to one another in hushed whispers our willingness to leave promising big-firm careers behind in exchange for slower-paced jobs and the prospect of more balanced lives? One cannot argue convincingly that these twenty and thirty-something women, educated at the top law and business schools in the country, lack opportunities for challenging work and lucrative compensation (or perhaps "meaningful" work with fewer financial rewards). Neither can one casually dismiss the phenomenon as isolated instances of apathy, laziness, or lack of career drive. Rather, this desire to forsake high-power jobs and the status and compensation that come with them seems to be rooted in a nagging dissatisfaction with the qualities that this high-power culture rewards. In the legal profession, this is particularly problematic for women who often find that the male-oriented culture values aggressiveness and competitiveness over the ability to communicate, mediate and problem-solve, thus creating a "double bind" or catch-22 in which the female lawyer is perceived as either too timid or too aggressive.¹

I. GENDER AND BEHAVIORAL NORMS

While women are now actively recruited and have access to positions in the most prestigious firms, their gender is still a relevant issue because of the way it affects their relationships with their male colleagues and consequently their opportunities for advancement in the firm hierarchy.² The combative, male-oriented approach to the practice of law not only affects the individual lawyer and her firm, but it also has a significant influence on the profession at large. First, it establishes traditionally male, adversarial qualities as the norm for professional behavior³ and the standard by which to measure whether or not an attorney is zealously representing her client's interests. Second, if women are unwilling to conform to these norms or if they adopt them in a way that others perceive as too abrasive, it can make the career ladder far steeper and more difficult to climb,⁴ thus preventing the integration of a diverse range of skills and strategies into the higher levels of the legal profession. Third, when traditionally female approaches emphasizing mediation and problem-solving (rather than just "winning") are stifled, it reinforces the judicial system's perception of conflict through a win-lose lens.⁵ Finally, the resulting frustration and disenchantment experienced by women lawyers results in lower productivity and higher attrition rates, which translates into greater costs and reduced profits for their employers.⁶

II. THE MOMMY TRACK AND OTHER OBSTACLES

In addition to the obstacles posed by male-oriented professional norms, women lawyers are also faced with the challenge of reconciling motherhood and family responsibilities with career demands and employers' expectations. Women who do not assimilate to male norms by placing the needs of the firm above the needs of their families tend to suffer the consequences in terms of career advancement, while those who do assimilate are often considered tokens and are constantly reminded that they are different from both their male and female colleagues.⁷ Although law firms have made great strides in recent years in instituting written, and often liberal, maternity and child-care leave policies, women still feel that there is pressure not to take full advantage of these policies if they hope to advance their careers.⁸

In addition, women face other challenges, such as exclusion from the informal networks that allow their male colleagues to develop professional contacts and become successful "rainmakers" for their firms.⁹



III. PROPOSED SOLUTIONS

There are numerous ways in which women and women's lawyering styles can be better integrated into the legal profession and law firm culture. Within the profession, successful awareness-generating tactics have included judicial education programs and gender bias reports by judicial and bar association bodies.¹⁰ Other proposals include implementing a top-down firm management policy valuing equality¹¹ and shifting the focus of legal education beyond the traditional adversarial model toward more collaborative learning.¹² Among women as a group, one answer may be to foster professional support through an "old girl's network."¹³ Individual women must also take control of their own professional fate and can do so by, for example, seeking out supportive mentors¹⁴ and adjusting their communication patterns, such as asserting themselves by speaking with authority and not raising their intonation at the end of a sentence.¹⁵ However, because so many of the differences in male and female attitudes and behaviors are learned at a young age and are ingrained in our society and our traditionally male profession, there are no quick fixes to this complex problem.

Ultimately, the answer lies in shifting the focus from accommodating women to one of altering baseline norms so that they are defined by multi-dimensional rather than male or female characteristics and perspectives.¹⁶ To accomplish this, firms must make fundamental changes, including reevaluating the way they define success through billable hours, implementing and supporting policies that accommodate family and personal needs, and eliminating structural barriers by, for example, creating formal mentoring programs and providing transparent, measurable benchmarks for advancement toward partnership.¹⁷ As a result, firms will reap the benefits through increased retention and productivity and, consequently, greater competitiveness due to their ability to hire, retain, and promote the most talented associates, regardless of their gender.¹⁸

IV. CONCLUSION

Unfortunately, being female in the legal profession is still a relevant issue since the profession has perpetuated the myth that male-oriented qualities like aggressiveness and total devotion to work at the expense of personal needs are the best indicators of a lawyer's skill and commitment, a paradigm that pigeonholes both women and men who do not adopt that behavior. The subtle marginalization of female lawyers will persist until lawyers change the way they think about models of advocacy and behavior. Specifically, firms must rid themselves of the misguided idea that a good lawyer must be an aggressive gladiator who prioritizes work ahead of personal and family needs. Rather they must broaden their view of lawyering to incorporate the alternative model of problem-solver, and they must also eliminate structural barriers that force women to choose between making partner or leading balanced lives. Firms that succeed in this effort will find that not only will their female attorneys realize career benefits, but the firms themselves will gain the edge over their competitors when it comes to retaining high-quality attorneys and satisfying the diverse needs of their clients.

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See footnotes on page 7